



Department of Energy
Grand Junction Projects Office
Post Office Box 2567
Grand Junction, Colorado 81502-2567

June 15, 1992

Mr. Robert E. Bornstein
Environmental Protection Agency
Emergency Response Section H-8-3
75 Hawthorne Street
San Francisco, CA 94105

SUBJECT: Mining Lease AT(05-1)-ML-60.8-NM-B-1

Dear Mr. Bornstein:

Pursuant to our telecon on May 29, 1992, this letter will provide you with the status of the subject mining lease property located near Grants, NM. Specifically the lease is identified as "the SE 1/4 and the S 1/2 N 1/2 of Section 13, Township 13 North, Range 11 West, New Mexico Principal Meridian located in McKinley County, New Mexico.

As you are aware, as a result of the June 3, 1991 meeting in Grants, NM, the Department of Energy (DOE) agreed to take the lead in resolving the remedial action at the subject lease site. Subsequently, by letter dated June 21, 1991, a corrective action plan was forwarded to your office for review and approval. Approval was given by your letter dated July 5, 1991. The corrective action plan was forwarded to Todilto Development and Exploration Corp. (Todilto) for a cost proposal. The president of Todilto, George Warnock, took exception to the corrective action plan and by letter dated August 23, 1991 refused to perform the work. Your office was subsequently notified of the problem by letter dated September 11, 1991. By letter dated September 15, 1991, you notified George Warnock that he may be a "Potentially Responsible Party" for the subject lease site.

Because George Warnock was unwilling to perform the corrective action, the DOE had its prime contractor, Chem-Nuclear Geotech (Geotech) develop a cost proposal and plan of action. The plan and associated cost proposal was received on October 7, 1991. On October 25, 1991, a letter was forwarded to George Warnock advising him that the performance bond was being increased to \$200,000 pursuant to the terms of the lease agreement and that Todilto was in arrears for past due minimum royalty payments. By letter dated December 30, 1991, George Warnock was notified that Todilto was in breach of the terms and conditions of the subject lease and that the lease was being terminated. On January 16, 1992, George Warnock submitted an appeal to the Board of Contract Appeals (Board). On February 24, 1992 George Warnock filed his "Complaint" with the Board. On February 25, 1992 the DOE filed its "Rule 4" file with the Board. On March 10, 1992, the DOE filed the "Answer to Complaint" with the Board. On March 31, 1992, the Board was notified that the Grand Junction Projects Office was being transferred from the Idaho Field Office to the Albuquerque Field Office (AFO) and requested a delay until the AFO could

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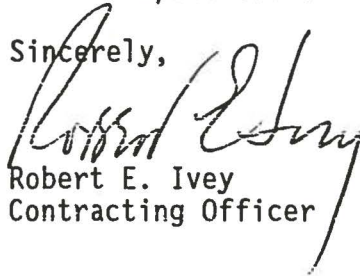
become familiar with the case. On May 4, 1992, the DOE filed an "Entry of Appearance." On May 6, 1992 the DOE attorney, Dean Arnold, and I met with George Warnock to discuss the possibility of a settlement. Based on our discussions a settlement proposal was submitted to George Warnock on May 8, 1992. By telephone, on May 27, 1992, George Warnock advised Dean Arnold that the settlement proposal was unacceptable. At this time, the DOE is continuing through the Appeal process which is scheduled for a hearing sometime in August. The exact date will be determined after the "Discovery" period.

With the Appeal still pending, there is no further action which the DOE can take at this time.

The process has been long and involved and I can appreciate the frustration experienced by your office and particularly by the Navajo Nation. As events continue to unfold, I will keep you informed.

If you have any questions, please call me at 303/248-6003.

Sincerely,



Robert E. Ivey
Contracting Officer

cc: D. Arnold, DOE-AL
L. Wandres, EPA
S. Hoskie, Navajo EPA
J. Manygoats, Navajo Superfund Program